

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

3:03CV374-MU

ELMER HANSEN,	)	
Plaintiff	)	
	)	
vs.	)	ORDER
	)	
JO ANNE B. BARNHART,	)	
Commissioner of Social Security,	)	
Defendant.	)	
_____	)	

This matter is before the Court upon the memorandum and recommendation of United States Magistrate David C. Keesler, filed January 14, 2005. The parties were advised that pursuant to 28 U.S.C. § 636(b)(1), written objections to the memorandum and recommendation must be filed within 10 days after service of the memorandum. Plaintiff filed an “Objection to the Magistrate’s Memorandum and Recommendation” on February 1, 2002. Thus, it appears that the defendant’s objections were not timely filed. Additionally, Plaintiff’s counsel failed to state its objections against the Magistrate’s recommendation with the required specificity. See Page v. Lee, 337 F.3d 411, 416 FN3 (4<sup>th</sup> Cir. 2003) (stating that a general objection to a magistrate’s recommendation is insufficient to avoid waiver).

Nevertheless, after an independent and thorough review of the magistrate's memorandum, defendant’s objections thereto, and a de novo review of the record, the Court concludes that the recommendation to deny Plaintiff’s Motion for Summary Judgment and grant Defendant’s Motion for Summary Judgment is correct and in accordance with law. Accordingly, the findings and conclusions of the magistrate are accepted, Plaintiff’s Motion for Summary Judgment is DENIED and Defendant’s Motion for Summary Judgment is GRANTED.

IT IS THEREFORE ORDERED that the memorandum and recommendation of the

magistrate is hereby AFFIRMED.

**Signed: August 25, 2005**

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
Chief United States District Judge

